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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/784,551	02/21/2004	Earle West	1231	7763

24383 7590 07/16/2007  
ALLAN JACOBSON  
INTELLECTUAL PROPERTY LAW  
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RICHBORO, PA 18954-1738

EXAMINER
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WINTER, JOHN M

ART UNIT	PAPER NUMBER
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3621

MAIL DATE	DELIVERY MODE
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07/16/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/784,551		WEST, EARLE	
	<b>Examiner</b>		<b>Art Unit</b>	
	John M. Winter		3621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 May 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 6-10 and 16-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 6-10, 16-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Acknowledgements***

The Applicants amendment filed on May 3, 2007 is acknowledged.

### ***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-5 and 11-15 are drawn to access with a credential, classified in class 726 subclass 5.
  - II. Claims 6-10 and 16-40 are drawn to secure transaction with authentication, classified in class 705 subclass 51.

Inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed in invention II does not require the particulars of the subcombination as claimed in inventions I such as a identifying remote appliance to the central server using an encryption key.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

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Via paper filed on May 3, 2007 a provisional election was made without traverse to prosecute the of invention II, claims 6-10 and 16-40. Affirmation of this election must be made by applicant in replying to this Office action. Claims 1-5 and 11-15 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

## STATUS

Claims 6-10 and 16-40 are pending.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6-10 and 16-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cusack et al (US Patent Application Publication 2005/0128199) in view of Su et al (US Patent 7,032,110).

As per claim 6,

Cusack et al ('199) discloses a remote appliance for coupling a data collection device to a central server, said data collection device storing a data file, said central server being coupled to the Internet, said remote appliance comprising:

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a memory, said memory storing a first polling schedule, a second polling schedule a port coupled to said data collection device, said remote appliance polling said data collection device through said port according to said first polling schedule, said remote appliance receiving said data file through said port;(Figure 1B, paragraph 33; )

said memory further storing a copy of said data file in said remote appliance in accordance with said first polling schedule;(paragraph 33)

an Internet connection coupling said remote appliance to the Internet, (Figure 1B)

remote appliance adapted to transfer said data file stored on said remote appliance to said central server. (Paragraph 30)

Cusack et al ('199) does not specifically disclose encryption key; remote appliance adapted to send a message based on said encryption key to said central server over the Internet for identifying said remote appliance to said central server; ; Su et al. ('110) discloses encryption key; remote appliance adapted to send a message based on said encryption key to said central server over the Internet for identifying said remote appliance to said central server (Figures 3A, 3B and 3C), it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the Su et al.('110) reference in view of Cusack et al ('199) in order to increase the security of the system by adding additional logon parameters.

Cusack et al ('199) discloses the claimed invention except for "remote appliance connecting to the Internet in accordance with said second polling schedule", It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a second IC card, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

Claims 16, 21, 26, 31 and 36 are in parallel with claim 6 and are rejected for at least the same reasons.

As per claim 7,

Cusack et al ('199) discloses the an apparatus in accordance with claim 6, wherein said system further comprises: an accounting server, said accounting server connecting to the Internet for transferring said data file stored on said central server to said accounting server, whereby said accounting server has access to data collected at said data collection device. (Paragraph 30)

Claims 17, 22, 27, 32 and 37 are in parallel with claim 7 and are rejected for at least the same reasons.

As per claim 8,

Cusack et al ('199) discloses the an apparatus in accordance with claim 6, where data collection device is a point of sale terminal.(Paragraph 27 and paragraph 33)

Claims 18, 23, 28, 33 and 38 are in parallel with claim 8 and are rejected for at least the same reasons.

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As per claim 9,

Cusack et al ('199) discloses the an apparatus in accordance with claim 6,

where data collection device is a vending machine.(Paragraph 27)

Claims 19, 24, 29, 34 and 39 are in parallel with claim 9 and are rejected for at least the same reasons.

As per claim 10,

Cusack et al ('199) discloses the an apparatus in accordance with claim 6,

where data collection device is an employee time clock. (Paragraph 27 and paragraph 41)

Claims 20, 25, 30, 35 and 40 are in parallel with claim 10 and are rejected for at least the same reasons.

### ***Conclusion***

Examiners note: Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to John M. Winter whose telephone number is (571) 272-6713. The examiner can normally be reached on M-F 8:30-6, 1st Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Fischer can be reached on (571) 272-6779. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



John Winter

Patent Examiner -- 3621



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